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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,547	03/09/2004	Naomi Zack	4827-00101P	2030

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Law Offices of Seldon & Scillieri
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Los Angeles, CA 90024

EXAMINER

YOUNG, JANELLE N

ART UNIT PAPER NUMBER

2618

DATE MAILED: 12/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/796,547

Applicant(s)

ZACK, NAOMI

Examiner

Janelle N. Young

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1, 8-13, 17, and 19-20 is rejected under 35 U.S.C. 102(b) as being anticipated by Tate et al. (US Patent 6285772).

As for claim 1, Tate et al. teaches a telephone; which reads on claimed communication apparatus, comprising, in combination:

a telephone; which reads on claimed communication device, having an external input area into which the user of the device speaks to communicate with the device (Abstract; Col. 2, lines 54-62; Col. 3, lines 35-43; and Col. 8, lines 36-50 of Tate et al.);

a cancellation of ambient noise; which reads on claimed sound-absorbing, body; and attachment means for mounting said body on said communication device in an operative position in proximity to said input area but without blocking a substantial portion of said input area, said body generally facing the user speaking into the input area to thereby reduce sound emitted to the surrounding environment from such speaking (Abstract; Col. 2, lines 20-25 & 41-54; Col. 5, line 50-Col. 6, line 21 of Tate et al.).

As for claims 8-10, Tate et al. teaches a communication apparatus, wherein said body is in the form of an arcuate surface extending outwardly of said input area so as to block emanation of sound and/or around but spaced and/or substantially surrounds said from the user speaking into said input area (Col. 2, line 55-Col. 3, line 18; Col. 4, line 54-Col. 5, line 49; and Col. 6; line 59-Col. 7, line 39 of Tate et al.).

As for claims 11-12, Tate et al. teaches a communication apparatus, wherein said body is comprises a rigid or semi-rigid backing that supports a layer of sound-absorbing material; which one or more from the following group: cork, rubber, foam, natural or artificial compounds of inert material, and electronic devices that absorb sound (Col. 6, lines 1-21 & 51-58 of Tate et al.).

Regarding claim 13, see explanation as set forth regarding claim 1 (communication apparatus claim) because the claimed method of utilizing a communication device so as to reduce the ambient sound produced when the user speaks into the device would perform the communication apparatus steps.

Regarding claim 17, see explanation as set forth regarding claims 1 & 11-12 (communication apparatus claim) because the claimed use with a communication device having an external input area into which the user of the device speaks to communicate with the device, sound-absorbing apparatus would perform the communication apparatus steps.

Regarding claims 19-20, see explanation as set forth regarding claims 11-12 (communication apparatus claim) because the claimed use with a communication device having an external input area into which the user of the device speaks to

communicate with the device, sound-absorbing apparatus would perform the communication apparatus steps.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 2-7, 14-16, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tate et al. (US Patent 6285772) as applied to claim 1 above, and further in view of Bartha et al. (US Patent 6101402).

As for claim 2, Tate et al. teaches a telephone; which reads on claimed communication apparatus, comprising, in combination: a telephone; which reads on claimed communication device, having an external input area into which the user of the device speaks to communicate with the device (Abstract; Col. 2, lines 54-62; Col. 3, lines 35-43; and Col. 8, lines 36-50 of Tate et al.); a cancellation of ambient noise; which reads on claimed sound-absorbing body; and attachment means for mounting said body on said communication device in an operative position in proximity to said input area but without blocking a substantial portion of said input area, said body generally facing the user speaking into the input area to thereby reduce sound emitted to the surrounding environment from such speaking (Abstract; Col. 2, lines 20-25 & 41-54; Col. 5, line 50-Col. 6, line 21 of Tate et al.).

What Tate et al. does not explicitly teach is operable position and in a non-operable position.

However Bartha et al. teaches a communication apparatus, wherein said body is positionable both in an open; which reads on claimed operable, position and in a folded or concealed; which reads on claimed non-operable, position (Fig. 1-2 & 11; Col.3, lines 24-39; and Col. 5, lines 34-56 of Bartha et al.).

It would have been obvious to one of ordinary skill of the art at the time the invention was made to incorporate a radiotelephone with sliding acoustic member, as taught by Bartha et al., in the noise control device of Tate et al., because Tate et al. already teaches apparatus is disclosed for the cancellation of ambient noise that impinges upon the front surface of a pressure differential microphone means (Abstract and Col. 6, lines 1-21 of Tate et al.).

The motivation of this combination would cancel or reject background noise, as taught by Tate et al. in Col. 2, lines 19-26, because it would capture the desired sounds and reduce or nullify the undesired background noises. The incorporation of sound guide in a communication device with noise control device would achieve good sound quality, the speech can be collected, and some of the surrounding noise is shut out (Abstract and Col. 1, lines 11-40 of Bartha et al.).

As for claim 3, Bartha et al. teaches a communication apparatus, wherein said body is permanently connected to said communication device and is selectively movable by the user between an operable position and a non-operable position (Abstract; Col. 2, lines 11-28; and Col. 3, lines 7-41 of Bartha et al.).

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As for claim 4, Tate et al. teaches a communication apparatus, wherein said body is removeably attachable to said communication device in an operative position, and is selectively removable by the user to a non-operative position (Col. 2, lines 5-9 of Tate et al.).

As for claim 5, Bartha et al. teaches a communication apparatus, wherein said attachment means is a pivoted hinge, and said body is in the form of a generally flat screen movable between a non-operative position which reduces the space occupied by the apparatus and an operative position extending outwardly from said input area (Col. 1, lines 42-56 of Bartha et al.).

As for claim 6, Tate et al. teaches a communication apparatus, further including a second screen, said screens movable to outwardly extending operative positions at either side of said input area (Col. 7, lines 5-17 of Tate et al.)

As for claim 7, Bartha et al. teaches a communication apparatus, wherein said body is in the form of a sleeve slidable between an non-operative generally telescoped over said communication device and an operative position adjacent to said input area (Fig. 11; Col.3, lines 24-39; and Col. 4, lines 13-58 of Bartha et al.).

Regarding claim 14-15, see explanation as set forth regarding claim 7 (communication apparatus claim) because the claimed method of utilizing a communication device so as to reduce the ambient sound produced when the user speaks into the device would perform the communication apparatus steps.

Regarding claim 16, see explanation as set forth regarding claim 3 (communication apparatus claim) because the claimed method of utilizing a

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communication device so as to reduce the ambient sound produced when the user speaks into the device would perform the communication apparatus steps.

Regarding claim 17, see explanation as set forth regarding claim 5 (communication apparatus claim) because the claimed method of utilizing a communication device so as to reduce the ambient sound produced when the user speaks into the device would perform the communication apparatus steps.

Conclusion


3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janelle N. Young whose telephone number is (571) 272-2836. The examiner can normally be reached on Monday through Friday: 8:30 am through 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on (571) 272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JNY
December 8, 2006

 12/11/06
QUOCHIEB B. VUONG
PRIMARY EXAMINER